

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Gavin Vachon Jones,)	
)	
Petitioner,)	
)	
vs.)	Civil Action No. 3:06-788
)	
Stan Burt, Warden of Lieber Correctional)	
Institution and Attorney General of the)	
State of South Carolina,)	
)	
Respondents.)	
)	

ORDER

The Petitioner filed the instant *pro se* action for habeas relief pursuant to 28 U.S.C. § 2254 on March 14, 2006. (Doc. #1). On June 15, 2006, the Respondents filed a motion for summary judgment. (Doc. #14). As the Petitioner is proceeding *pro se*, an order pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), was issued on June 26, 2006, advising the Petitioner of the importance of adequately responding to a motion for summary judgment. (Doc. #17). On June 28, 2006, the Petitioner filed a motion for summary judgment and a response to the Respondents' motion for summary judgment. (Docs. #18, 19). The Respondents filed their response to the Petitioner's motion on June 29, 2006. (Doc. #24). The Petitioner filed a reply on July 6, 2006. (Doc. #23).

This matter now comes before the Court for review of the Report and Recommendation ("the Report") by United States Magistrate Judge Joseph R. McCrorey, to whom this case had been previously assigned. (Doc. #25). In the Report, issued on February 6, 2007, the magistrate judge recommends that "[b]ased on a review of the record, it is recommended that respondents' motion

for summary judgment be granted, and that petitioner's motion for summary judgment be denied."

Id. The Petitioner filed objections to the Report on March 8, 2007. (Doc. #28).

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted). In light of this standard, the Court has carefully reviewed the Report. After careful review of the Report, the objections thereto, and the memoranda filed in this case, the Court accepts the Report. Therefore, for the reasons articulated by the magistrate judge, it is **ORDERED** that the Respondents' motion for summary judgment (Doc. #14) is **GRANTED** and the Petitioner's motion for summary judgment (Doc. #18) is **DENIED**. Accordingly, this petition is dismissed.

IT IS SO ORDERED.

S/ Terry L. Wooten

Terry L. Wooten
United States District Judge

March 22, 2007
Florence, South Carolina